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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/064,010	06/04/2002	George J. Vlahos		7211

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George J Vlahos
8549 Heather Court
St John, IN 46373

EXAMINER

JOHNSON III, HENRY M

ART UNIT PAPER NUMBER

3739

DATE MAILED: 09/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 10/064,010	Applicant(s) VLAHOS, GEORGE J.	
	Examiner Henry M. Johnson, III	Art Unit 3739	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 June 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 1-5 and 16-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 6-12, 14 and 15 is/are rejected.
- 7) ☒ Claim(s) 13 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 June 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Response to Arguments

Applicant's arguments filed 15 November 2004 have been fully considered but they are not persuasive. A recitation with respect to the manner in which an apparatus is intended to be employed does not impose any structural limitation upon the claimed apparatus which differentiates it from a prior art reference disclosing the structural limitations of the claim. In re Pearson, 494 F.2d 1399, 181 USPQ 641 (CCPA 1974); In re Yanush, 477 F.2d 958, 177 USPQ 705 (CCPA 1973); In re Finsterwalder, 436 F.2d 1028, 168 USPQ 530 (CCPA 1971); In re Casey, 370 F.2d 576, 152 USPQ 235 (CCPA 1967); In re Otto, 312 F.2d 937, 136 USPQ 458 (CCPA 1963); Ex parte Masham, 2 USPQ2d 1647 (BdPatApp & Inter 1987).

The indicated allowability of claims 11 and 14-15 is withdrawn in view of the newly discovered reference(s) to Epling and Schneider. Rejections based on the newly cited reference(s) follow.

Claim Objections

The claims are objected to because they include reference characters which are not enclosed within parentheses.

Reference characters corresponding to elements recited in the detailed description of the drawings and used in conjunction with the recitation of the same element or group of elements in the claims should be enclosed within parentheses so as to avoid confusion with other numbers or characters which may appear in the claims. See MPEP § 608.01(m).

Claim 8 is objected to for missing the word "A" in the beginning of the claim.

Claim 12 is objected to for having a period at the beginning of the claim.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the bowl-mounted lights (claim 13) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

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Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 6, 7, 9, 10 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 2,460,543 to Spierer. Spierer discloses an ultraviolet ray toilet seat comprising a seat pivotally supported on brackets mounted upon the back portion of a toilet bowl, the seat being constructed of material adapted to readily transmit ultraviolet light (Col 2, lines 6-15). A U-shaped ultraviolet tube is positioned within a recess in the seat and is thus positioned to expose the buttocks of one seated thereon (Col. 2, lines 17-20).

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Regarding claim 7, the limitations are related to intended use rather than structure of the device and are given limited patentable weight.

Regarding claim 9, a portion of the ultraviolet tube is positioned at the rear of the seat.

Regarding claim 10, the translucent seat is interpreted as a transparent waterproof cover for the ultraviolet light therein.

Regarding claim 12, the ultraviolet light is mounted in a recess on the lower surface of the seat.

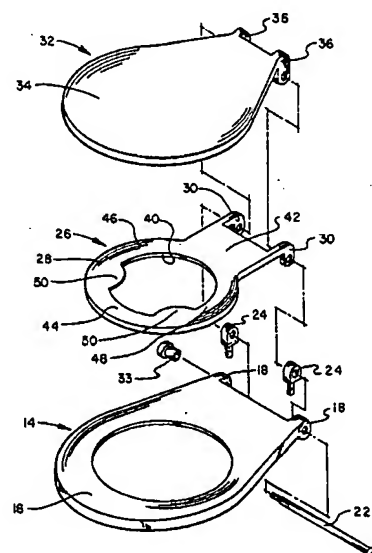
Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 2,460,543 to Spierer. Spierer discloses the claimed invention except for two separate lights on opposite sides of the seat. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use multiple lights to provide the same exposure as the single ultraviolet tube, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 2,460,543 to Spierer in view of U.S. Patent 5,384,917 to Epling. Spierer is discussed above, but does not teach a second seat between the main seat and the cover. Epling teaches an auxiliary child's toilet



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seat (Fig. 3, # 46) that is mounted between a main seat (Fig. 3, # 16) and a cover (Fig. 3, # 34). The child's seat may be moved out of the way when not needed or desired. It would have been obvious to one having ordinary skill in the art at the time the invention was made to mount the UV lights on an auxiliary seat as taught by Epling in the invention of Spierer to provide the option of a lighted or non lighted seat to the user.

Claims 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 2,460,543 to Spierer in view of U.S. Patent 6,385,782 to Schneider. Spierer is discussed above, but does not teach a removable seat between the main seat and the cover. Schneider discloses a transportable and foldable toilet seat attachment device for use with a conventional toilet, the toilet including a bowl with an upwardly facing rim onto which is pivotably engaged a conventional toilet seat cover (abstract). The seat is constructed of two arcuate portions and hinges are provided which are constructed as an integral part of the attachment seat material and are more specifically narrowed and hinged interconnections which permit the arcuate portions to pivot between the unfolded position to a folded position (Col. 5, lines 13-18). It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the portable seat as taught by Schneider in the invention of Spierer for mounting the lights to provide for the use of the specialized seat on any available toilet.

Allowable Subject Matter

Claim 13 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion


The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patent 5,005,223 to Greenwood teaches a portable, foldable toilet seat. U.S. Patent 5,448,781 to Miller discloses a combination toilet seat with multiple seats.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Henry M. Johnson, III whose telephone number is (571) 272-4768. The examiner can normally be reached on Monday through Friday from 6:00 AM to 3:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda C. Dvorak can be reached on (571) 272-4764. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Henry M. Johnson, III
Primary Examiner
Art Unit 3739